IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.5295 OF 2005
IN
FIRST APPEAL NO.2128 OF 2005

M/s.All Well Builders Corp. & Ors. ...Applicants
Vs.
Arun Harshadrai Bhatt & Ors. ...Respondents

Mr N.B. Shah for the Applicants.
Mr Sriram S. Kulkarni for the Respondents.

CORAM : A. S. OKA, J.
DATE : APRIL 28, 2006.

P.C.:

1. Rule. Respondents waives service. Taken up for hearing forthwith. The Respondents are the flat purchasers who are placed in possession of the suit flat by the Applicants/Appellants who are professional builders. By the impugned decree the Respondents have been directed to pay to the Applicants the balance consideration in respect of the suit flat with interest. Prayer for possession of the flat has been dismissed and therefore, present First Appeal has been filed.

2. Considering the facts and circumstances of the case, no case is made out for grant of relief of injunction. The Application is rejected. However, it is made clear that all further actions of the

Respondents will be subject to final outcome of the Appeal. In the event the Respondents desire to create third party interest, they are directed to give notice to the prospective purchaser of the pendency of the Appeal.

3. Shri. Kulkarni appearing for the Respondents states that the Respondents have applied for setting aside the decree passed by the Trial Court. It is clarified that notwithstanding the pendency of the Appeal, the said Application will be decided on its own merits.

JUDGE